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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,520	04/12/2004	Todd Bolzer	33511-CNT1	.3332

7590 02/05/2007  
HOVEY WILLIAMS LLP  
Suite 400  
2405 Grand  
Kansas City, MO 64108

EXAMINER
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CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
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3781

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/05/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/822,520

Applicant(s)

BOLZER, TODD

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9-11-06; 4-12-04</u> | 6) <input type="checkbox"/> Other: ____  |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Fouss et al. (4359167) (Fouss).

Fouss discloses an underground tank comprising a resin shell having an outer wall defining a chamber for storing liquid, as shown in Fig. 1 the shell is elongated along a longitudinal axis, an upper wall includes a manway 92, 94, 96, an outer wall includes inwardly extending pockets formed by root portions 12 of the corrugated side wall, the root portion along the side as shown in Fig. 1 has upright walls extending over 50% of the height, the same root portion at the upper wall as shown in Fig. 2 has a vertical, second wall substantially perpendicular to the upright wall and extending at least 40% of the width.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 40-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fouss et al. (4359167) (Fouss) in view of De Benedittis et al. (5346093)(De Benedittis).

Fouss discloses an underground tank comprising a resin shell having an outer wall defining a chamber for storing liquid, as shown in Fig. 1 the shell is elongated along a longitudinal axis, an upper wall includes a manway 92, 94, 96, an outer wall includes inwardly

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extending pockets formed by root portions 12 of the corrugated side wall, the root portion along the side as shown in Fig. 1 has upright walls extending over 50% of the height, the same root portion at the upper wall as shown in Fig. 2 has a vertical, second wall substantially perpendicular to the upright wall and extending at least 40% of the width, the manway includes a collar 92, the collar has an inner annular wall portion 94 adapted to receive a cover. However, no trough circumscribes the collar. De Benedittis teaches a liquid storage tank with an opening 36 which is surrounded by a circumscribing trough recessed downwardly from the collar 36 and the top surface of the outer wall. It would have been obvious to add the circumscribing trough to catch liquids that may exit the through an opening.

Claims 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fouss et al. (4359167) (Fouss) in view of Gonzalez (6390325).

Fouss discloses an underground tank comprising a resin shell having an outer wall defining a chamber for storing liquid, as shown in Fig. 1 the shell is elongated along a longitudinal axis, an upper wall includes a manway 92, 94, 96, an outer wall includes inwardly extending pockets formed by root portions 12 of the corrugated side wall, the root portion along the side as shown in Fig. 1 has upright walls extending over 50% of the height, the same root portion at the upper wall as shown in Fig. 2 has a vertical, second wall substantially perpendicular to the upright wall and extending at least 40% of the width. However, no lugs are shown. Gonzalez teaches a stairwell structure and tank with several parts having members arranged in the shape of an "L" and attached to the outer end wall of the tank. It would have been obvious to integrally mold the L-lugs onto the end wall of the resin tank of Fouss to provide a stairwell structure for the convenience of providing access to the top of a tank and adapting a

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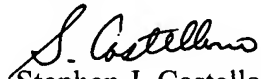
tank to above ground use or use within a below ground well where access to the top of the tank is desired.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535.

The examiner can normally be reached on increased flexibility plan (IFP).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Stephen J. Castellano  
Primary Examiner  
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sjc